

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 652 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

PALLAVIBEN D/O MAFATLAL RANCHHODAS PRAJAPATI

Versus

SATISH SHARMA

Appearance:

MR PRAVIN GONDALIYA for petitioner

MR HL JANI, APP for respondent No.6

CORAM : MR.JUSTICE R.P.DHOLAKIA

Date of decision: 17/09/1999

ORAL JUDGEMENT

This petition is filed to issue a writ of mandamus or any other appropriate writ, order or direction directing the respondent No.1 not to pressurise the parents, brother and brother's wife to hand over the custody of the petitioner to respondent Nos.3 and 4.

2. The case of the petitioner in short is that she

left her parental house on 14-3-1999 and got married with respondent No.3 on 16-3-1999 against the will and wish of her parents. After staying with her husband at Munarika Gam, Delhi for a week, petitioner along with her husband started residing at the parental residence of respondent No.3 at Vikramganj, Dist. Rohtas, Bihar. After some time, parents and brother of the petitioner had accepted this marriage. It is submitted on behalf of the petitioner that during ten days of staying with the husband of petitioner at Vikramganj, there was no torture or harassment from respondent No.3. Thereafter, in-laws of the petitioner started asking dowry from the petitioner and they started torturing her mentally and physically which was continued very often. In-laws of the petitioner started asking dowry from the petitioner's parents also over telephone. When the brother and sister-in-law of the petitioner came at her in-laws place at Bihar on 24-4-1999 to pursue her to come at Deesa, petitioner came to Deesa for a change. There at Deesa also, parents of in-laws of the petitioner started demanding dowry over telephone. When the petitioner had asked to stay for some more time at Deesa, the husband of petitioner got angry and threatened her not to stay at Deesa. Thereafter on 22-7-1999 the respondent Nos.2 and 3 came at the place of petitioner at her parental house and asked to go with them. Since, the petitioner came to know that her in-laws are interested only in dowry, she preferred not to go with them and as a result, the respondent Nos.3 and 4 got angry and threatened her and her parents with dire consequences. An application was submitted by respondent Nos.3 and 4 before D.S.P., Banaskantha at Palampur stating that petitioner was confined by her brother and her sister-in-law. Based on said application, the respondent No.1 directed the respondent No.2, i.e. P.I. to enquire and hand over the possession of the petitioner to respondent Nos.3 and 4 and to submit the report within three days. It is submitted on behalf of the petitioner that Dy.S.P. should not have passed such direction to hand over the custody of petitioner. Therefore, this petition is filed to protect her life and liberty and also for a direction restraining the respondents from compelling the petitioner to move against the will and wish of petitioner.

3. Initially notice was issued by the Court (Coram: A.K.Trivedi, J.) which was made returnable on 17-8-1999 and the Court passed the order as under:

"In the meanwhile, respondents Nos.1 and 2 are directed not to take the custody of Pallaviben

from her brother who is residing at the address stated in the cause title and to hand over to anybody without prior permission of this court. Respondent No.2 is further directed to remain present on returnable date with statement of the petitioner, if recorded or any other material of inquiry made in the subject matter. D.S. permitted for respondent Nos.1 and 2."

4. Today, P.I. of Deesa City Police Station, Shri Srivastava who is investigating the matter is personally present as directed by this Court along with original papers. I have gone through the letter dated 22-7-1999 written by Shri N.K.Shukla, Dy.S.P., Banaskantha, Palanpur to Shri Srivastava wherein he was directed to enquire urgently and minutely in the matter and hand over custody of Ms.Prajapati Pallaviben Mafatlal to Shri Ravi Prakash and to report him within three days from the date of receipt of said letter. I may state here that if at all Dy.S.P. has received any application, then he is entitled to send the same to concerned Police Station for enquiry and report, but he cannot direct the Investigating Officer to take custody of Prajapati Pallaviben Mafatlal, who is admittedly a major, highly qualified and capable of looking after her own interests. The concerned Police Officer has no right to treat a woman as property and direct the Investigating Officer to take her possession and hand over to Ravi Prakash, but he can direct Investigating Officer to investigate into the matter.

5. Ms.Prajapati Pallaviben Mafatlal is personally present in the Court. Certain questions were put to her by this Court. She has stated that her date of birth is 31-7-1974 and at present she is 25 years of age. She has passed M.Sc. and B.Ed. from North Gujarat University. This witness has stated before the Court that she is doing household work and she is staying with her parents since 28th of April, 1999 voluntarily. Prior to that from March 1999 she was staying with her husband Shri Ravi Prakash, son of Shri Nandkishore Prakash at Vikramganj, Bihar. According to her, she left Vikramganj, Bihar on 25th April, 1999 on her own along with her brother and sister-in-law. She has stated that she got married with Shri Ravi Prakash on 16-3-1999 and now she is not interested to go and stay with her husband at Vikramganj, Bihar.

6. Investigating Officer, Shri Srivastava has made a statement through learned APP Mr.H.L.Jani before this Court that he has investigated the matter and submitted

the report. He has also made a statement that he will not pressurise either Ms.Prajapati Pallaviben Mafatlal or her parents to hand over custody of Ms.Prajapati Pallaviben Mafatlal to Shri Ravi Prakash or anybody else against her will.

7. In view of above statements made by the Investigating Officer as well as by Ms.Prajapati Pallaviben Mafatlal and having regard to the facts and circumstances of the case, this Special Criminal Application stands disposed of accordingly.

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